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SERVICE DATE – SEPTEMBER 15, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 31536

JACKSON COUNTY PORT AUTHORITY—CONSTRUCTION EXEMPTION—  
PASCAGOULA, MISS.

Docket No. FD 34134

JACKSON COUNTY PORT AUTHORITY RAILROAD—OPERATION EXEMPTION—  
JACKSON COUNTY PORT AUTHORITY

Decided: September 14, 2016

This decision grants the request of the Jackson County Port Authority a/k/a Port of Pascagoula (the Port) to withdraw a petition for exemption and a notice of exemption from the above-captioned Interstate Commerce Commission (ICC) and Board proceedings.

The Port is a public agency and a political subdivision of the State of Mississippi. It owns and operates a large port in Pascagoula, Miss., with facilities for handling a wide variety of cargo. The Port owns, maintains, and operates a small network of railroad trackage at each of its two facilities. This trackage connects the Port's facilities with lines operated by two common carrier railroads, CSX Transportation, Inc. (CSXT), and Mississippi Export (MSE), a shortline railroad that serves the Port through a reciprocal switch with CSXT.

On July 28, 2016, the Board granted a request for a declaratory order from the Port, finding that the Port had not become a common carrier railroad subject to the Board's jurisdiction. Jackson Cty. Port Auth.—Pet. for Declaratory Order, FD 35994 (STB served July 28, 2016). The Port filed its petition for declaratory order in light of two previous grants of authority it received from the ICC and the Board. Jackson Cty. Port Auth.—Constr. Exemption—Pascagoula, Miss., FD 31536 (ICC served Aug. 21, 1990); Jackson Cty. Port Auth. R.R.—Operation Exemption—Jackson Cty. Port Auth., FD 34134 (STB served Dec. 5, 2001). In its petition, the Port stated that it had not constructed any railroad track or taken any action to operate as a rail carrier pursuant to these two earlier decisions. Therefore, the Board found that, despite obtaining authority to construct and operate a new rail line and to conduct local switching operations, the Port never undertook steps associated with consummating that authority, and the Board therefore granted the Port's petition for a declaratory order.

Furthermore, in its July 28, 2016 decision, the Board stated that, because the Board's previous grants of authority are permissive and have never been formally withdrawn, it is possible that the Port might engage in certain activities in the future that could be construed as consummating the authorities granted. Therefore, to resolve the question of future

consummation of these authorities, the Board stated that the Port could consider filing a request with the Board to formally withdraw the petition and notice in the earlier dockets. By letter filed July 28, 2016, the Port requests that the petition filed in FD 31536 and the notice filed in FD 34134 be withdrawn. Based on the Board's finding in Docket No. FD 35994 that the authority granted in those dockets has never been consummated, the Port's request to withdraw its petition and notice will be granted.

It is ordered:

1. The Port's request to withdraw its petition for exemption in Docket No. FD 31536 and its notice of exemption in Docket No. FD 34134 is granted.
2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.